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Honorable Edward Korman
United States District Court
United States Courthouse
225 Cadman Place East
Brooklyn, NY 11201

Re: In re Holocaust Victim Assets Litigation

Dear Chief Judge Korman:

I wish to raise for action by your Honor several matters which arose in a conference call among Prof. Issacharoff, Mr. Dubbin and myself this day regarding the Fee Application of Burt Neuborne, some of which relate to the timeliness of the Court's consideration of the Fee Application.[1] First, I do not believe Mr. Neuborne's fee application should be considered in isolation of other fee applications that counsel intend to file. I note that in a Declaration from Mr. Weiss that he intends to file a fee application. I believe it more efficient and appropriate for the Court to require that all fee applications be filed by a date certain and a hearing held on all.

Second, I believe that Mr. Dubbin is correct that some form of class notice must be given. FRCP Rule 23(h)(1), which became effective in 2003, states "[n]otice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner." I read this language as mandatory, not precatory. Although notice to class members was given in 1999 or 2000 as to fees that might be sought up to that time, I do not believe that the current Application can be grandfathered to that notice. The substantial fees sought here are for work performed subsequent to the signing of the Settlement Agreement and were not contemplated by the earlier notice. This has been a case where some class members have been proactive in opposing fees, so such a notice would be expected by class members. My only reservation is that the class is large and notice is expensive. Should the Court require class notice, I would be willing to work with the appropriate people to reduce the scope and cost of the notice.

Third, I learned from other counsel that some class members have already written to your Honor regarding the Neuborne Fee Application. One e-mail from a class member was posted on ECF by counsel. I request that the Court post on ECF all letters it receives on this subject.

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Finally, should the Court **not** adopt my first or second points, counsel have agreed that any responses to the new submission by Prof. Issacharoff will, with your approval, be submitted by February 17. Otherwise, a new briefing schedule should be set after all fee applications are received and class members have had a chance to comment.

Respectfully yours,

Robert A. Swift

RAS/pdw

Cc via e-mail: Sam Dubbin, Esquire
Prof. Samuel Issacharoff